

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the property assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

Cargo Containers Inc. (as represented by Linnell Taylor & Associates), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

K. D. Kelly, PRESIDING OFFICER

K. Coolidge, MEMBER

P. Pask, MEMBER

This is a complaint to the Calgary Assessment Review Board in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

| | |
|--------------------------|--------------------------|
| ROLL NUMBER: | 200595668 |
| LOCATION ADDRESS: | 2004 Alyth Pl. SE |
| HEARING NUMBER: | 65373 |
| ASSESSMENT: | \$1,500,000 |

This complaint was heard on 25th day of June, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- *Mr. D. Sheridan - Linnell Taylor & Associates*

Appeared on behalf of the Respondent:

- *Mr. G. Bell - Assessor- City of Calgary*

REGARDING BREVITY:

[1] The Composite Assessment Review Board (CARB) reviewed all the evidence submitted by both parties. The extensive nature of the submissions dictated that in some instances certain evidence was found to be more relevant than others. The CARB will restrict its comments to the items it found to be most relevant.

Board's Decision in Respect of Procedural or Jurisdictional Matters:

[2] None.

Property Description:

[3] The subject is a single-tenant (IWS) industrial warehouse property in the Alyth/Bonnybrook industrial area adjacent to the Alyth rail yards. It is improved with an 8,392 square foot (SF) 1975 era warehouse building. It is located at 2004 Alyth Pl. SE. – a gravel road. The site is perfectly triangular in shape. The 0.66 acre property has 0% office finish; 29.20% site coverage; and is assessed at \$179.30 per SF of building area for an indicated value of \$1,500,000.

[4] **Issues:**

1. The assessment has increased by 31.46% year-over-year which is unreasonable.
2. The subject is assessed in excess of market compared to comparable market sales.
3. The irregular property shape has not been factored into the assessment.
4. The site has incomplete City services which reduces its market value.
5. Assessment Review Boards in previous years have reduced the assessment.

[5] **Complainant's Requested Value:** \$1,010,000

Board's Decision in Respect of Each Matter or Issue:

Issue #1

[6] The Complainant argued that the 31.46% annual year-over-year increase is unwarranted given that there have been no physical changes to the site and its improvements. He also argued that the increase is not reflected in his analysis of the market over the past year. In addition he argued that the City has ignored decisions by previous Assessment Review Boards to reduce the assessment.

[7] The Respondent argued that year-over-year percentage increases or decreases are not, of themselves, valid reasons to change an assessment.

Board Findings on Issue #1:

[8] The Board finds that year-over-year percentage increase/decreases are not, of themselves, valid reasons to change an assessment. The Complainant's argument fails regarding this issue.

Issue #2

(a) Market Approach

[9] The Complainant provided a matrix of three market sales of properties he considered similar to the subject. Two sales occurred in 2010 and one in 2009. He identified the various characteristics of each and compared them to the subject (i.e. ground floor area; year of construction; clear wall height; per cent office finish; site coverage; and value per square foot). In particular he identified important differences between each of them, and the subject. He clarified that:

“notable differences include the date of sale (time), ages (AYOC) all of the comparables being newer than the subject, and all the comparables having higher site coverage ratios.”

The Complainant provided the RealNet and Commercial Edge data sheets for the three sales.

[10] The Complainant also explained in detail how he had provided positive and negative “adjustments” to several of the site characteristics for each of his three market sales to improve their comparability to the subject. The “adjustments” applied were based upon his matrix analysis of a total 130 market sales from 2009 to 2011 inclusive. He analyzed market value on a per square foot basis from three perspectives - by year of sale; by age of structure; and by degree of site coverage.

[11] In the case of his comparable #3 at 4609 Manitoba Rd., SE he applied a fourth (additional) adjustment using a portion of the “Marshall and Swift” assessment valuation manual to account for an onsite “heavy crane” and appurtenances. He ultimately concluded that his three adjusted properties were similar to the subject and reflected more correct market value to be applied to the subject. In Rebuttal, the Complainant argued that he had disclosed his adjustments whereas the Respondent did not.

[12] The Respondent argued that the Complainant's analysis was flawed and unreliable because there was insufficient data regarding each of the 130 sales used in his analysis, such that they could not be compared to each other or the subject. He argued there was no data identifying any of the sales as being either a single or multi-tenanted building; level of office finish each contained; level of retail space, if any, in each site; degree of site coverage; age of the improvements; validity of the sale (i.e. portfolio; arms length or not, etc.), and so on. He indicated the Complainant's data is merely an array of market sales from a point in time, and hence no weight should be placed upon his analytical conclusions developed from them.

[13] The Respondent argued that several of the adjustments proposed by the Complainant are so large (e.g. 17%; 18%; 42.7%) that the results are largely subjective, unreliable, and meaningless. He also argued that the 92% site coverage of the Complainant's comparable property #1 at 4240 – 16 St. SE, renders comparability to the subject at 29% site coverage, meaningless. Therefore, he argued, the Complainant's market sales are not comparable to the subject.

[14] In addition the Respondent argued that the Complainant has mixed methodologies by introducing elements of the "Marshall and Swift" manual used to calculate "Cost Approach to Value" property value calculations, to his Market Value comparative valuations. He noted that this is not accepted appraisal theory or methodology.

[15] The Respondent provided five market sales and three equity comparables, arguing that their individual characteristics more closely match the subject and support the assessment. He also indicated the City had adjusted the subject's assessment to account for the age and condition of the site. He noted the site coverage is 29.2%, matching the city typical of 30%. Therefore he argued the subject compares favourably to similar typical city industrial properties.

(b) Income Approach

[16] The Complainant further supported his alternate market valuation for the subject with an Income Approach to Value calculation. He identified what he considered to be typical inputs for use in his calculation, including vacancy rates, and operating costs (Op Costs). He used \$8 per SF rents from the 2012 Business Assessment, and selected a capitalization rate of 6.5% from a perceived market range of 6% to 12%, said to be based on a review of 130 industrial sales from 2009 to 2011. However, none of the sales analyzed by the Complainant to calculate his capitalization rate range were clearly identified for the Board or Respondent. Based on his Income Approach calculations and analysis, the Complainant argued that the indicated market value of the subject is \$1,010,000.

[17] The Respondent argued that the Complainant's Income Approach to Value calculations are flawed since they rely on a mix of "actual" and "typical" values which is not accepted appraisal practice. He also noted that the Complainant provided no market evidence to support his 6.5% capitalization rate; the \$4 per SF op costs, or 1% vacancy rate.

Board Findings on Issue #2:

[18] The Board finds that the Respondent is correct in his criticism of the Complainant's methodology and analysis of three years of selected (130) market sales used to identify his preferred "adjustments". There is a distinct lack of supporting data for each of the many market sales used, and thus the "adjustments" the Complainant derives therefrom, and uses to test his three market sale comparables, are subjective and unreliable.

[19] The Board finds that the Complainant has incorrectly mixed elements of two valuation methodologies (i.e. Market Approach, and, "Cost Approach") which is invalid and inappropriate methodology, thereby leading to unreliable conclusions regarding value. Hence the Board considers the Complainant's adjusted market value conclusions are also unreliable.

[20] The Board finds that the Complainant's Income Approach to Value calculation to be unreliable since it relies on both "actual" and "typical" values, and lacks market data support for the individual variables used.

[21] The Board finds that the magnitude of the adjustments used by the Complainant for his three market comparables, also cast considerable doubt on the comparability of each of them to each other and to the subject.

[22] The Board finds that the Respondent's market sales and equity evidence supports the assessment.

Issue #3

[23] The Complainant argued using maps, site plans, and photos, that the shape of the site is triangular and of limited utility and value. He argued that the City should have applied a minimum negative 25% "shape factor" influence to the assessment calculation as per its usual practice and procedure.

[24] The Respondent clarified that a negative 25% "shape factor" site influence was in fact applied to the triangular site when the subject was assessed. The City recognizes the unusual shape of the site and the affect it would have on the value of the subject in the market.

Board Findings on Issue #3:

[25] The Board finds that the Respondent has already applied a negative 25% "shape factor" influence to the subject during the assessment process. Therefore the Board will take no further action and make no further adjustment to the assessment regarding this issue.

Issue #4

[26] The Complainant argued that the subject site lacks complete urban services unlike other similar and comparable properties, and therefore was at a value disadvantage in the market. He referenced photos of the gravel street (Alyth Place) bordering the site on the west. He offered no comparative market evidence to support his argument, or a reliable, expected, reduced value from this deficiency.

[27] The Respondent noted and argued that the Complainant provided no market evidence in support of this theory. In addition he noted that the site has full municipal hard and soft services, except for paved roads with curb and gutter. Therefore, he argued, the Complainant's arguments are invalid regarding this issue.

Board Findings on Issue #4:

[28] The Board finds that the Complainant's argument regarding a lack of services affecting the value of the site in the market, to be unsupported by any market evidence.

Issue #5

[29] The Complainant referenced Calgary Composite Assessment Review Board decision "CARB 1515/2011-P" which dealt with the subject in 2011 and reduced the assessment for the reasons stated. He argued that the City appeared to have ignored this decision when preparing the 2012 assessment for the subject. Therefore he suggested that the present Board should also reduce the assessment for similar reasons as identified in the decision.

[30] The Respondent argued that the Board in CARB decision 1515/2011-P clarified on page 2 that it "placed little weight on the income approach (of the Complainant) due to the lack of evidence in support of the rent, vacancy, and cap rates used to calculate the assessment estimate". He disagreed that the current Board should simply ignore the evidence submitted by both parties for the current appeal, and move to arbitrarily reduce the assessment for 2012.

Board Findings on Issue #5:

[31] The Board finds that it has no in-depth knowledge of the evidence and/or arguments before the Board of the day in CARB 1515/2011-P which ultimately led to that Board's decision(s). This Board finds that it is tasked with considering the evidence and argument properly before it today regarding the subject property, and rendering a decision thereon. This Board will proceed in an unfettered fashion to do so.

Board's Decision:

[32] The assessment is confirmed at \$1,500,000.

DATED AT THE CITY OF CALGARY THIS 18th DAY OF July 2012.


K. D. Kelly
Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

| NO. | ITEM |
|--------|-----------------------------------|
| 1. C-1 | Complainant Disclosure |
| 2. C-2 | Complainant Disclosure – Rebuttal |
| 3. R-1 | Respondent Disclosure |

An appeal may be made to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of an assessment review board.

Any of the following may appeal the decision of an assessment review board:

- (a) the complainant;*
- (b) an assessed person, other than the complainant, who is affected by the decision;*
- (c) the municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;*
- (d) the assessor for a municipality referred to in clause (c).*

An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision, and notice of the application for leave to appeal must be given to

- (a) the assessment review board, and*
- (b) any other persons as the judge directs.*